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Don Bishoff Upholding convictions



FRANK WILKINSON WAS bemused when I asked him the question: Are you now, or have you ever been, a member of the Communist Party?

"From the time I began refusing to answer it to now, I've never answered the question and I'll die without answering," said the old warrior from the Red Scare days.

He even went to prison for almost a year for refusing to answer it for the infamous House Un-American Activities Committee (HUAC). That was almost 25 years ago, a time that must seem strange to those too young to remember the witch-hunting committee and the climate of fear it created while looking for Communists under the national bed.

But — at age 70 — Frank Wilkinson still remembers and still is roaring a warning around the country in his stump-speaker voice: The times haven't changed as much as we might like to think.

Now executive director emeritus of the National Committee Against Repressive Legislation (formerly the National Committee to Abolish HUAC), Frank was in Lane County this week for some American Civil Liberties Union-sponsored speeches.



Frank Wilkinson

Still won't answer question

executive orders or congressional bills unconstitutional."

"It is worse now, because we've lost the separation of powers between the legislative, executive and judicial branches," he said in a pre-speech conversation. "In the '40s, '50s and '60s, Truman, Eisenhower, whoever, often did repressive things. Congress passed repressive laws equal to what we're fighting today. But in every single instance, the Supreme Court came down and declared the presidential

What's wrong today, he contended, is that the (Chief Justice Warren) Burger Supreme Court is upholding repressive legislation or making repressive decisions of its own. "This makes this period of time more fraught with danger than anything we faced in the '40s, '50s or '60s," he said.

Frank speaks frequently in such apocalyptic terms. He is an unabashed zealot.

"I want you to know that I'm an absolutist on the Bill of Rights," he said. "I'm a pacifist, but I would die for it. I think it is that important to the democratic process. If you want to think I'm a Communist, go ahead. . . ."

THAT, IN ESSENCE, IS WHAT he told HUAC when it asked him the question in 1960. Unlike many interrogated by HUAC, Frank didn't take the Fifth. He took the First.

He maintained that Congress can't legislate in First Amendment-protected areas of free speech and free association — and, therefore, that the committee had no right to ask questions in those areas. But his stand got him a federal court conviction and prison sentence. The conviction was upheld by a 5-4 vote of the Warren Supreme Court.

Frank had refused to answer a similar question for a California legislative committee in 1952 and was fired from the Los Angeles Housing Authority as a result. At that point, he moved from a career in slum clearance to one of fighting for the Bill of Rights.

Why not answer the question? Because, he said, he wanted a test case of his belief that HUAC was stomping on the Constitution.

"You have to understand our tactics," he said. "We decided from 1952 forward to work for the abolition of HUAC without ever answering that question. There were all kinds of people who were against HUAC, but they would begin their statement by saying, 'Now, I'm not a Communist. . . .'"

"We felt that the battle had to be fought on the grounds that the Un-American Activities Committee should be abolished and that anyone has a right to be any politically unorthodox thing they want to be without being punished."

Frank ultimately won: HUAC was abolished. Still pending is a \$16-million suit against the government, alleging that the FBI illegally wiretapped, spied on and burglarized his group, trying to put it out of business.

IN THE MEANTIME, FRANK has taken on new battles, against legislation that he regards as offensive as HUAC. Samplers of his views:

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● The Simpson-Mazzoli immigration act — "Its application will be racist, adding to discrimination against Hispanics, Haitians and Asians. (The bill's) new bracero program (for importing alien farm workers) will bring in 500,000 more undocumented people who will be totally at the mercy of the INS (Immigration and Naturalization Service) and the growers. . . . Due process is eliminated" for those claiming political asylum. And the act's provision for a national ID card is "police state legislation."

● The anti-terrorism bill — "It provides for 10 years in prison and a \$10,000 fine for anyone who 'acts in concert with or provides support services to a terrorist organization.' " The problem with that, said Frank, is that the secretary of state would have the exclusive power to declare any organization terrorist, and his finding couldn't be challenged in court. "The really hypocritical thing is they exempt the CIA from being called a terrorist organization and — this is really wild — the very week that Reagan put that in, the story broke regarding the CIA mining of the harbors of Nicaragua!"

● The anti-crime bill — "Look at this," Frank said, holding up a color-splashed leaflet. "Here's the Bill of Rights and here's what the crime package does to the First, Fourth, Fifth, Sixth, Seventh, and Eighth amendments. . . . It's really the old Senate Bill One — the Nixon-Mitchell (anti-crime) bill of 1973."

The ACLU representative with Frank was trying to get him to his speech on time. But Frank had one more alarm to sound — about Reagan administration executive orders that put a lid on release of government information:

"This again is why I say things are worse. There's not only the loss of the separation of powers, but we're getting legislation by executive fiat. Reagan is allowing the CIA to work domestically, he's unleashed the FBI to go back where they were, and now he's cutting off not only my source, but your source of information."

Then he left, the question still unanswered. Draw your own conclusions: Is such a constitutional zealot a likely Communist?